

REMARKS

Introduction

Claims 41, 46-48, 52, 53, 96, 101-103, 106-108, 151, 152, 157-159, 163, and 164 are pending. Claims 41, 96, and 151 are rejected under 35 U.S.C. § 112, first paragraph for failing to comply with the written requirement. The remaining claims are objected to as being dependent upon a rejected base claim, but are indicated to be otherwise allowable. Applicants appreciate the indication of allowable subject matter.

In support of the § 112, first paragraph rejection, the Action contends that applicants' specification fails to provide support for "prefetching program guide data in response the authorization of a pay-per-view program" and recommends that applicants amend claims 41, 96, and 151. (Office Action, page 3.) The rejection of claims 41, 96, and 151 is traversed.

Summary of Telephonic Interview

On July 29, 2009, the undersigned and the Examiner discussed the § 112 rejection during a telephonic interview. The undersigned thanks the Examiner for the courtesies extended during the interview. During the interview, the undersigned stated that the cited subject matter is supported by at least (1) original claims 45, 100, and 156 incorporated into claims 41, 96, and 151, respectively by applicants' Response filed on February 17, 2009, and (2) the disclosure in page 46, lines 7-33 of the disclosure. The Examiner agreed that claims 41, 96, and 151 are likely allowable in their current form, but requested further review upon receipt of applicants' written response. Detailed remarks in support of applicants position are presented below:

Applicants' Response

"[T]he fundamental factual inquiry [for determining compliance with the written requirement] is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed." MPEP 2163.02. Claims 41, 96, and 151 comply with the written requirement.

First, each of original dependent claims 45, 96, and 156 specifically recited prefetching program guide data when a pay-per-view program is authorized, and provides adequate support for their respective parent claims 41, 96, and 151, which now incorporate this subject matter.

Second, page 46, lines 7-33 of Applicants' specification describes illustrative steps that reasonably convey to one of ordinary skill in the art that program guide data may be prefetched when authorizing a pay-per-view program. In particular, the cited section states:

[T]he program guide may store its unique identifier and the associated action (i.e., a pay-per-view program authorization) in a list of such actions If, for example, the program guide receives the identifier for the ordered pay-per-view program when the pay-per-view program starts, the program guide may indicate to the user that the pay-per-view program is starting. The program guide may, for example, overlay a window or banner over the television program that the user is watching If desired, the program guide may prefetch program listings data or additional program data for the pay-per-view program from the continuous data stream or from program guide server 25 when the window or banner is displayed.

(Applicants' specification, page 46, lines 7-33). This cited section describes at least two events that may occur when a pay-per-view program is authorized (1) the display of a window or banner, and (2) prefetching of program guide data. Since displaying a window or banner is merely one illustrative action that can be taken when the pay-per-view program is authorized, the final sentence of the cited section (noting that the prefetching is done "when the window or banner is displayed") cannot reasonably be construed to mean that prefetching is performed only when a window or banner is displayed. In other words, a reasonable interpretation of the cited passage is that display of a window or banner and prefetching of program guide data are examples of actions that may (but need not) be performed when a pay-per-view program is authorized, which fully satisfies the written requirement for claims 41, 96, and 151.

For at least the foregoing reasons, applicants respectfully request reconsideration and withdrawal of the § 112, first paragraph, rejection of independent claims 41, 96, and 151.

Objection to Claims 46-48, 52, 53, 101-103, 106-108, 152, 157-159, 163, and 164

Claims 46-48, 52, 53, 101-103, 106-108, 152, 157-159, 163, and 164 depend from claims 41, 96, and 151 are allowable for at least the same reasons set forth above.

Conclusion

For at least the reasons discussed above, Applicants submit that this application is in condition for allowance. Prompt consideration and allowance are therefore respectfully requested.

We believe that we have appropriately provided for fees due in connection with this submission. However, if there are any other fees due, please charge our Deposit Account No. 06-1075 under Order No. 003597-0110 from which the undersigned is authorized to draw.

Dated: August 10, 2009

Respectfully submitted,

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